

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: REFCO INC. SECURITIES LITIGATION

MARC S. KIRSCHNER,
As Trustee of the Private Actions Trust,

Plaintiff,

vs.

PHILLIP R. BENNETT, SANTO C. MAGGIO,
ROBERT C. TROSTEN, MAYER, BROWN,
ROWE & MAW LLP, GRANT THORNTON LLP,
and ERNST & YOUNG LLP,

Defendants.

MDL-1902 (GEL)

Case No. 07 CV-8165 (GEL)

Judge Gerard E. Lynch

ECF FILED

**NOTICE OF MOTION TO DISMISS
BY DEFENDANT ERNST & YOUNG
LLP PURSUANT TO FEDERAL
RULES OF CIVIL PROCEDURE
9(b) AND 12(b)(6)**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law dated June 6, 2008, the Declaration of Christopher Harris and the exhibits thereto, all submitted herewith, defendant Ernst & Young LLP (“EY”) will and hereby does move this Court, before the Honorable Gerard E. Lynch, United States District Judge, in the United States Courthouse for the Southern District of New York, 500 Pearl Street, Room 910, Courtroom 6B, New York, New York 10007, for an order dismissing all claims in the above-referenced action directed at EY (Claims 4, 5, & 6) pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, at a date and time convenient to the Court and parties.

EY requests oral argument be heard on this motion.

Dated: New York, NY
June 6, 2008

Respectfully submitted,

LATHAM & WATKINS LLP

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*Attorneys for Defendant
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